

## SCRUTINY REVIEW PANEL 2- LICENSING POLICY

### MINUTES

Thursday 23 November 2017

**PRESENT:** Councillors: Anthony Young (Chair), *Natasha Ahmed-Shaikh (Substitute for Councillor Anthony Kelly)*, Munir Ahmed, *Josh Blacker*, Theresa Byrne, Paul Conlan (Vice Chair), *Daniel Crawford (Substitute for Councillor Katherine Crawford)*, Rajinder Mann, and Nigel Sumner.

**Co-opted Members Present:**

Ann Brennan                      Chair, Mill Hill Park Residents' Association  
Ann Chapman                     Chair, Walpole Residents' Association

**Ealing Officers Present:**

Harjeet Bains                     Scrutiny Review Officer  
Peter Clark                        Team Leader, Licensing Compliance and Trading Standards  
  
Paula Portas                       Democratic Services Officer  
Henry Kennedy-Skipton        Head of Regeneration  
Alison Luff                         Legal Officer

**Other Attendees:**

Anna Elliott                        Chief Executive, In West Ealing Bid  
Frances Zammit                    Expert Witness, resident, Ealing Broadway ward

### 1. Apologies for Absence

(Agenda Item 1)

Councillor Ahmed-Shaikh substituted for Councillor Anthony Kelly.  
Councillor Daniel Crawford substituted for Councillor Katherine Crawford.  
Jess Murray, Helen Statham, Councillor Mohinder Midha, Councillor Andrew Steed and Councillor Harbhajan Kaur Dheer sent their apologies.

### 2. Declarations of Interest

(Agenda Item 2)

Councillor Daniel Crawford declared that he had been present as a member of the public in the Licensing Sub Committee hearing mentioned by Ms Zammit in her representations to the Panel.

### 3. Matters to be Considered in Private

(Agenda Item 3)

There were none.

#### **4. Minutes of the meeting Held on 23/11/2017**

(Agenda item 4)

The Panel considered the minutes of the last meeting of the Panel which had taken place on 23 November 2017. The minutes should be amended to reflect the apologies sent by Councillor Patrick Cogan.

**Resolved:** That

- (i) the minutes of the previous meeting of the Panel held on 23 November 2017 be amended to reflect the apologies sent by Councillor Cogan.
- (ii) the minutes of the previous meeting of the Panel held on 23 November 2017 be agreed as a true and correct record.

#### **5. Ealing Night Time and Visitor Economy Presentation**

(Agenda Item 6)

The Chair invited Henry Kennedy-Skipton, Head of Regeneration, to impart his presentation on Ealing's Night Time and Visitor Economy (NTVE) to members.

Henry Kennedy-Skipton said that Ealing and London's population was growing and there was a need to cater for them providing affordable, diverse leisure and evening attractions. There were clear benefits to a burgeoning NTVE. The night time economy was, he said, a key driver of economic and cultural regeneration and a magnet for domestic and international visitors. Recent research showed that the night time economy contributed £26.3bn to London's annual GDP and supports 1 in 8 jobs. This figure was expected to rise to £28.3bn by 2029. But there was currently no oversight of this critical part of London's economy. As a result, night time businesses were sometimes seen only as the root of noise and nuisance. Around the world, cities were starting to re-evaluate their night time economies. There was growing recognition of the increasing demand for a broader night time culture and entertainment offer. Many of the world's cultural metropolises were appointing night time mayors to champion, coordinate and bring innovation to their night time economies

The night tube, providing night-time services to travellers on Friday and Saturday night on the Central, Jubilee, Northern, Piccadilly and Victoria Lines since August 2016, was key to a successful NTVE. Recent figures released by EY/London First showed that the Night Tube had nearly eight million journeys, and had boosted London's economy by £171m in its first year alone and was supporting more than 3,600 jobs.

Henry Kennedy-Skipton said that Ealing had all the right ingredients to achieve a successful NTVE. It could build on a history that counts Ealing Studio, its high street, university life, its festivals and cosmopolitan character.

However, there were also challenges in developing a successful NTVE. General challenges posed by a NTVE were dealing effectively with increased noise,

disturbance and litter; potential crime, anti-social behaviour or nuisance; the increase in numbers visiting town centres, the impact on the capacity of services; the impact of having additional premises and competition from other places. Challenges specific to Ealing were attracting a mixed economy, promoting the borough as a destination point, make the environment more attractive and dealing with a narrow market.

The key point was to ask ‘what sort of place do we want Ealing to be?’ Ealing, he said, had pleasant and well connected areas such as Acton but there was room for improvement there and to build a NTVE that offered value for everyone. Improvement could be built on the cinema development, and other resources such as the Questor Theatre, the Red Rooms, etc. It was important to bring a mixed economy with mixed uses, and improvements to public realm and safety, whilst rescuing the NTVE from a negative perspective (Public Space Protection Orders (PSPOs), anti-social behaviour, etc.). Key projects being developed so far were new transport hub with the advent of Crossrail, Dickens Yard in Ealing Broadway and Southall Waterside.

There was policy guiding the development of successful NTVE in London – mainly:

- Office of the Deputy Prime Minister (now the Department for Communities and Local Government) guidance 2003.
- Greater London Authority Supplementary Planning Guidance (SPG) November 2017.
- The London Plan (spatial development strategy for London) November 2017

The Council also had the option to seek Purple Flag accreditation. The Purple Flag standard, launched in 2012, was an accreditation process similar to the Green Flag award for parks and the Blue Flag for beaches. It allowed members of the public to quickly identify town and city centres that offer an entertaining, diverse, safe and enjoyable night out.

Ealing Licensing Policy was important to build the desired NTVE. Policy tools such as the Special Area were instrumental in managing public space and a thriving night life. The main purpose of this was to limit licensed premises saturation in Ealing, Acton and Southall town centres. They could be deployed to encourage a wider mix of visitors to these areas by using wisely carefully crafted exceptions to the policy, such as for restaurants. PSPOs, such as that in West Ealing, were also successful in reducing anti-social behaviour, yet, as well as controlling street drinking, these should accommodate a vibrant and safe evening economy. Revisions to the Special Area Policy (SAP) and PSPOs should be based on evidence and consider boundary issues. At this point, for instance, big name restaurants have created an evening ‘global food quarter’ in the Broadway.

The evening economy offered potential opportunities to enhance living in the borough, attract residents, create jobs and tax revenue for the Council and improve the sense of place whilst maintaining its own character. Yet there was a need to improve the profile of the area making it friendly to families and a mix of people, giving it a wider appeal, as well as attracting investment. There were examples of good practice elsewhere, for instance Liverpool and other London boroughs.

The Chair thanked Henry Kennedy-Skipton for his presentation and invited questions and comments from the Panel.

Anna Elliott, Chief Executive, In West Ealing Bid, asked what was the best way to make the most for places like West Ealing. Henry Kennedy-Skipton said that a successful NTVE in places like West Ealing required attracting investment to create the right mix and environment, maybe with the use of tools such as the SAP. Improving parking facilities would also help. He said that the Council did not create facilities per se but it could work with those who did.

Councillors Cogan and Byrne enquired about the lack of live music venues in the borough, despite its history as birthplace for Marshall and prominent rock bands. Councillors noted that it was worth thinking beyond having one individual licenced music venue, making Ealing instead a place where live music could happen. Henry Kennedy-Skipton said that he agreed with the need to build on Ealing's music history and have more and varied good music venues.

Councillors asked about the SAP in relation to the NTVE. Councillor Daniel Crawford said that whilst there could be a considerable economic boost from the NTVE there were also detriments to it. In his view, it was problematic to consider the possibility of excluding the opening of restaurants from the SAPs as licences did not differentiate from restaurants and take away/off-licence premises – of which there was saturation.

Henry Kennedy-Skipton replied that he was not advocating any specific change to the SAP, but pointing out the existence of tools that allowed some fine-tuning of public spaces. Alison Luff, Legal Officer, said that it was possible for the SAP to specify that the presumption did not apply to a specific type of premises – a difference allowed in planning applications — for instance, to restaurants. She said that Richmond's SAP was an example of this fine-tuned use of policy tools.

Councillor Blacker asked for clarification as regards food led business as an exception to the SAP. He said he was concerned that any business would offer nibbles in order to flout the SAP if such an exception was in place. Alison Luff responded that any exception would have to be policed and enforced. But there were clear differences between premises whose main purpose was to eat in, from those where a snack would be offered with a drink. She said that she would circulate Richmond's SAP text for Councillors to see an example of this sort of exception in place.

Ann Chapman, co-optee, said that Ealing had had a cultural quarter for some years which seemed to have failed. She asked what the present vision was in the Council on contributing to the development of arts centres and cultural performances.

Councillor Theresa Byrne asked what the Council was doing to help small local businesses. Henry Kennedy-Skipton replied that the council used funds to support some small businesses.

Councillor Josh Blacker inquired about the impact of the night tube, in terms of passenger flows, and the prospective impact of Crossrail. Henry Kennedy-Skipton

replied that he did not have that information but could find out and make it available to the Panel members.

Councillor Daniel Crawford said, in relation to the Cultural Quarter, that he was concerned if the Council's regeneration approach was too regimented. He said a strategy was needed which was realistic about what could be achieved. Durham, Bristol or Exeter were examples of Councils striking successful partnerships with small business, and reducing residents' opposition to NTVE.

Councillor Cogan noted that in the Dickens Yard's development the residential accommodation was in place, yet the social infrastructure was still missing. It needed to encourage local business to take residence there to be a success.

Councillors also enquired about the sustainability of the boroughs developments. Councillor Mann asked about the 4000 new homes built in Southall in the face of reduced services (police, hospitals, etc.). Councillor Ahmed-Shaikh and Councillor Blacker also asked how the NTVE was going to be supported in terms of services. Henry Kennedy-Skipton responded that the development in Southall would undoubtedly have an impact on services there, but it would also attract and provide facilities to residents. He said that one possibility, put in place by some boroughs, was to charge a levy to businesses. However, he thought that might not be appropriate in Ealing. Adding to this discussion, Frances Zammit said that, in her experience, no police service at all had been available when called on one particular occasion.

Ann Chapman, co-optee, asked what the Council's regeneration strategy was in light of the large residential developments being built. She said that, in her view, there was little room to deny a licence once planning permission had been obtained. Henry Kennedy-Skipton said that the Council's view was that regeneration should promote a positive mix of uses, without encouraging the concentration of inadequate types of venues for one place. For that, the regeneration department regularly engaged in consultation with other relevant departments and officers.

Councillor Daniel Crawford said that, in practice, it often happened that premises obtained licences before the Planning Committee had made a determination, as it had an important backlog. In his view, it should not be allowed to obtain a licence without having planning permission first. He said he believed that Ealing's current licensing policy was not fit for purpose.

Alison Luff said that as a Licensing Authority the Council was not in a position to reject an application due to the premises not having planning permission. That was merely following central government legal guidance.

The Chair said that without the Special Policy Area the Council seemed to have little power to refuse a licence application. He said that the Panel might like to suggest that the SAP should be expanded, if possible, after gathering relevant evidence. He said that it was important to encourage a wider mix of uses. So a recommendation could be to recognise special categories of business in order to distinguish restaurants from pubs or off-licences and encourage an appropriate mix.

Councillor Paul Conlan, Vice Chair to the Panel, said that central Ealing was very quiet in the evening, which was not to be expected of a large and dynamic borough.

He said that clearly some residents enjoyed that state of affairs. However, in his view, many residents would also enjoy a wider offer of leisure activities in the evening and a more vibrant civic centre in terms of music venues, restaurants and independent businesses. An example of a vibrant and enjoyable evening life was that of Chiswick. He asked what could be done in Ealing to encourage that sort of evening life.

Councillor Sumner said that he was satisfied with the present licensing arrangements. The present thinking about a NTVE was unwelcomed as local residents were already fighting licences.

The Chair thanked officers for their contribution and invited Frances Zammit to speak to the representation she had submitted to the Panel.

Frances Zammit, expert witness, said that good decision-making could have an impact on the NTVE. In her view there had been unlawful decision-making at the Council's Licensing Sub Committee, and beyond, due to Councillor's lack of grasp of the wider context of the situations they were deciding upon. A better understanding of the context would help Councillors to decide to refuse licences. Whilst a NTVE was positive, the spirit of Ealing, which should underpin decision-making in this regard, was ignored. She expressed support for cooperation with existing theatres and museums to develop local outposts and for engaging the University in civic life. She said that if Councillors had better training in decision-making they would be able to make the right decisions and, for instance, they would be able to stand up to big developers.

Anna Elliot explained that her key concern was the West Ealing area. She said that the PSPO there was displacing, rather than solving, the problems it was meant to tackle. There had been a spill over of these conflicts to Hanwell. She said that whilst the sort of venues and night time entertainment advocated by Frances Zammitt were beneficial, they were also geared towards catering for middle class residents. She said that it must be ensured that safe and accessible entertainment spaces were provided to those on low incomes as well.

Ann Chapman said that traditionally there had not been a strategic vision for the development of Ealing. However, she said, whilst there might be examples of poor decision-making, perfectly good decisions were also being made at the Council.

Frances Zammit said that in her view the problem was not just about a Chair of the Licensing Panel but also other members of Panels that did not speak up at Licensing Sub Committee hearings. She referred to the events at one Sexual Entertainment Venue ("SEV") Licence Renewal Hearing where she had submitted a representation and attended, as explained in her [written representation to the Panel](#).

Alison Luff noted that, in relation to the said venue, there had been a straightforward hearing to renew its licence and, a few months later, a review hearing brought about by the police due to a violent incident having taken place at the premises. She noted that it was difficult to evaluate the quality of the decision made in the latter hearing without looking in detail at the documents and arguments presented to the Panel at the time. She invited Panel members to examine the publicly available documentation for that meeting.

Councillor Daniel Crawford said that residents in Ealing were very frustrated with the way applications were being heard and with the quality of decision-making. He said that he fundamentally endorsed Frances Zammit's comments to the Panel with respect to that hearing.

Councillor Ahmed-Shaikh replied that in her view Ealing Licensing Police worked very hard to monitor a large amount of premises in the borough. Ealing Police, she said, referred premises to hearings when there was a need to do that. At other times they carried out background negotiations to resolve issues before coming to a hearing. As regards Panel members intervening at hearings, she said that Licensing Sub Committee Members deliberated behind closed doors, where all matters were thoroughly discussed with all members expressing their views.

Councillor Daniel Crawford suggested that examining the training of Licensing Committee members should be a recommendation for the Panel.

The Chair said that the Panel would like to examine what training had been provided for Councillors over the last ten months. He said that the chair of the Licensing Committee should be given the opportunity to respond in writing or to attend the next meeting to respond to the representation presented by Frances Zammit.

**Resolved:** That

- (i) the Ealing Night Time and Visitors Economy presentation be noted; and
- (ii) information about impact of the night tube and the prospective impact of Crossrail in Ealing be provided.
- (iii) Richmond's statement of Special Area Policy be distributed to the Panel; and
- (iv) the chair of the Licensing Committee be invited to respond in writing or attend the next meeting to respond to Frances Zammit's representation;
- (v) details of training provided for members of the Licensing Committee be provided.

## **6. Reducing High Strength Alcohol Report.**

(Agenda item 6)

The Chair invited Alison Luff, Legal Officer, to talk about the restriction of high strength alcohol as a licensing condition.

Alison Luff said that restricting the sale of cheap, high strength alcohol was a measure some licensing authorities were using to deal with alcohol-related problems, in particular street drinking. There were two possibilities:

- Designating areas where the licensing authority would seek a voluntary ban on high strength alcohol.
- Imposing conditions restricting the sale of high strength products on individual licences

Voluntary bans followed guidance from the Local Government Association. It involved gathering evidence of alcohol-related problems – a multi-agency approach was encouraged, with information from the police, health and other responsible

authorities, and residents being included —, designing a scheme to include the area and products to be covered and the places where such products were available; and consultations with relevant agencies and retailers.

Alison Luff said that participation in any such scheme was voluntary, although if as part of the scheme a premises agreed to have a condition placed on their licence, that condition would have full force and effect.

However, there were difficulties with these schemes. One was competition law: retailers must not engage in “anti-competitive” behaviour by entering into concerted practices. This meant that retailers signing up to a scheme must do so individually and independently, without discussing prices or other commercially sensitive information with their competitors. The second difficulty would be the reluctance of small businesses that work with tight profit margins to enter the scheme.

Imposing conditions restricting the sale of high strength alcohol may be appropriate in certain circumstances. Such conditions should not be imposed in a blanket fashion, and must be tailored to the individual premises. They were likely to be most appropriate on review, where high strength alcohol had been implicated in problems with the premises.

In practice Ealing has not designated any areas where a voluntary ban would be sought. Alison Luff suggested that the Panel may wish to consider this as part of the review of licensing policy – although evaluating evidence and undertaking consultation would need to take place before any such inclusion.

Licensing Sub Committees have at hearings imposed conditions restricting the sale of high strength alcohol on a number of premises licences, generally off-licences. The Sub-committee has sought the agreement of the applicant before imposing the condition. Where such a condition is considered appropriate, however, it may not be necessary to have agreement, although it is preferable if this is the case. The usual rules about conditions (appropriateness, tailored to the premises, etc.) would apply, and any condition may be appealed within 21 days of the grant of the licence.

Those premises with conditions restricting sales of high strength goods must comply with those conditions, and will be in breach of their licence and subject to review and/or prosecution if they did not do so.

Ann Brennan suggested that it would be of help to invite Acton Central Safer Neighbourhood Team officers carrying out Operation Temperance and outreach workers from Ealing RISE to give their account of the street drinking situation in Acton. Councillor Daniel Crawford said that he was happy to provide the contact details of the said officers and workers. The Chair said that the suggestion would be followed up.

The Chair asked if there was consistency in the conditions imposed. Alison Luff responded that more information was needed about what products were problematic as Panels had no rational basis to decide whether 6.6% or 6% were the appropriate strengths.

**Resolved:** That:



- (i) the Reducing High Strength Alcohol Report be noted; and
- (ii) Acton Central Safer Neighbourhood Team officers and Ealing RISE outreach workers be invited to the next meeting of the Panel

## **7. Updated Work Programme** (Agenda Item 7)

The Chair introduced the updated Work Programme report and asked the Panel to approve the agenda items and actions for the next meeting on 15 February 2018.

Councillor Daniel Crawford raised the issue of the new hearing process where more than one application would be heard per session. Alison Luff responded that the new system had been brought about because the council had been missing legal deadlines, leaving it vulnerable to criticism and complaints. In the new system a hearing date would be allocated at the time of submitting an application.

Councillor Ahmed-Shaikh said that the same few Councillors were always taking part in hearings. Councillor Daniel Crawford explained that a list for Councillors to provide their availability had been the system in place in the past and that had seemed to work well.

**Resolved:** That:

- (i) the updated work programme be approved.

## **8. Date of Next Meeting** (Agenda Item 8)

It was noted that the next meeting of the Panel would take place on 15 February 2018.

Councillor Anthony Young, Chair.

The meeting ended at 9 pm.